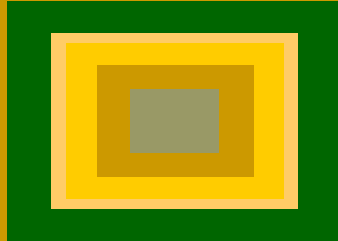




# **King County Drug Diversion Court**



**Policy and  
Procedure Manual**

This manual for the King County Adult Diversion Drug Court is designed to structure, but not to eliminate, decision making for all those individuals who seek to join the program as well as those who participate in it. The court reserves the right, in each individual case, to make discretionary decisions consistent with the law and public policy.

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## **I. INTRODUCTION**

The King County Drug Diversion Court (DDC) was implemented in August 1994, the twelfth Drug Court in the country. DDC is a pre-adjudication program that provides eligible defendants the opportunity to receive drug treatment in lieu of incarceration. Eligible defendants can elect to participate in the program or proceed with traditional court processing.

If defendants meet the requirements of each of the four phases of DDC, they graduate from the program and the charges are dismissed. If defendants fail to make progress they are terminated from the program and sentenced on their original charge.

Drug courts are built upon a unique partnership between the criminal justice system and drug treatment community which structures treatment intervention around the authority and personal involvement of a single drug court judge. Drug courts are also dependent upon the creation of a non-adversarial courtroom atmosphere where a dedicated team of court officers and staff work together toward a common goal of breaking the cycle of drug abuse and criminal behavior.

### **A. Mission:**

The mission of King County Drug Diversion Court is to combine the resources of the criminal justice system, drug and alcohol treatment and other community service providers to compel the substance-abusing offender to address his or her substance abuse problem by providing an opportunity for treatment and holding the offender strictly accountable.

### **B. Goals:**

1. reduce substance use and related criminal activity;
2. enhance community safety;
3. reduce reliance on incarceration for non-violent drug dependent offenders;
4. hold drug dependent offenders accountable for their actions and decisions;
5. integrate substance abuse treatment with criminal justice case processing;
6. provide resources and support to assist the drug dependent offender in the acquisition of skills necessary for the maintenance of sobriety;
7. reduce the impact of drug related cases on criminal justice resources; and
8. reward positive life changes while maintaining accountability for negative conduct.

## **II. ORGANIZATION**

**Effective 12/21/2011, King County Drug Diversion Court Policy and Procedures Manual:**  
**Section III, A, 1, b and Section III, A, 3 revised.**

### **A. Drug Diversion Court (DDC) Organization**

1. DDC Executive Committee: The DDC Executive Committee provides oversight of the program. The committee is comprised of representatives from superior court, judicial administration, prosecutor's office, public defense, county council, county executive, adult detention, law enforcement and treatment. The Executive Committee is responsible for setting major policy regarding the DDC.
2. DDC Judge: The DDC judge determines the focus and direction of the DDC program through effective leadership and collaboration with the DDC team. The DDC judge:
  - a) provides support, encouragement, rewards and sanctions as necessary as the DDC participant progresses through the program;
  - b) makes final decisions
  - c) leads pre-court staffing meetings;
  - d) promotes DDC policies, rules and procedures; and
  - e) serves as the central figure in a team effort that focuses on sobriety and accountability as the primary goals for DDC participants.
3. DDC Team: The DDC team is comprised of the judge, prosecutor, public defender, DDC Services administrative and treatment staff, police liaison and the treatment providers. The DDC team works in a cooperative and non-adversarial manner toward a common goal of assisting DDC participants to break the cycle of drug abuse and criminal behavior.

Team meetings are held each morning prior to the DDC calendar to review cases to be heard that day. The DDC team meets weekly to discuss problem cases in-depth. During the team meetings, the DDC team strives to reach consensus regarding next steps while also providing information and proposals to the court. The court then hears from the defendant, at the next scheduled hearing, and renders a decision.

4. DDC Defense Attorney: The role of the DDC defense attorney is to ensure his or her client's legal rights are protected while encouraging the client's full participation in the program. Within the parameters of the Rules of Professional Conduct, defense counsel:
  - a) participates fully as a DDC team member;
  - b) meets with potential DDC clients to evaluate their interest and amenability to the program, adhering to the eligibility criteria;
  - c) advises a client of their legal rights, legal options, and potential sentencing outcomes;
  - d) actively monitors client progress in the DDC and discusses the long-term benefits of a drug-free lifestyle; and
  - e) participates in a cooperative manner at drug court hearings and meetings and promotes a unified DDC team approach.

f) adheres to DDC policies, rules, and procedures, including reminding participants of their agreements, the DDC rules and mandates and the need to accept consequences for deviation.

5. DDC Prosecutor: The role of the DDC prosecutor is to protect public safety by ensuring that each candidate is appropriate for the program and complies with all DDC requirements. The prosecutor:
  - a) participates fully as a DDC team member;
  - b) makes eligibility recommendations and contacts collaborative agencies for input;
  - c) makes recommendations for termination and/or sanctions that balance community safety needs with potential for therapeutic outcomes;
  - d) participates in a cooperative manner at DDC hearings and meetings, and promotes a unified DDC team approach;
  - e) monitors client progress in the DDC program; and
  - f) adheres to DDC policies, rules, and procedures.
6. DDC Program Manager: The DDC program manager is responsible for the administrative, financial, and contractual aspects of the program, public relations, collaboration with other criminal justice and community agencies, and facilitating monthly business meetings and retreats. The DDC program manager also supervises Drug Diversion Court Services staff.
7. DDC Services (DDCS): DDCS provides liaison and case management services for the program. DDCS is responsible for providing Drug Diversion Court orientation, conducting preliminary assessments and referring DDC participants to appropriate treatment and ancillary services. DDCS serves as a conduit for the exchange of information between the court, treatment and other service providers. DDCS maintains the data and reports on the progress of each DDC participant. DDCS treatment staff makes treatment recommendations throughout a DDC participant's time in the program.
8. DDC Contract Treatment Agencies: DDC contracts with geographically diverse, community-based treatment agencies that provide intensive outpatient, residential and methadone services for DDC participants.
9. Non-Contract Treatment Agencies: Under certain circumstances, the court may allow participants to attend a non-contract treatment agency. This is acceptable provided that participants arrange for payment of treatment and that participants ensure that the treatment agency meets the DDC treatment and reporting requirements.
10. Drug Court Participant: Drug Court participants are to be fully aware of all drug court rules and requirements. Participants attend all scheduled and required meetings including drug court hearings. Participants are required to comply with courtroom decorum and etiquette as defined in the drug participant handbook which includes remaining in the courtroom while waiting to be seen by the drug court judge, paying attention during all proceedings and not engaging in side-talk.

### **III. ELIGIBILITY (revised 11-1-10)**

#### **I. KING COUNTY DRUG DIVERSION COURT: SCREENING, REFERRAL AND ELIGIBILITY (revised 11-13-13)**

- A. Screening:** The King County Prosecuting Attorney's Office screens all police referrals for DDC eligibility.
- B. Referral:** When the Prosecutor determines a defendant to be DDC eligible, the case is filed directly into DDC for arraignment. A deviation from this direct file policy will be made in otherwise eligible VUCSA Delivery or Possession with Intent to Deliver cases where SPD (Seattle Police Department) objects, at time of filing, to a defendant's participation in Drug Court. The basis for the objection shall be made in writing and be authorized by an SPD Official at the rank of Lieutenant or higher. The written objection will be made part of the Discovery packet provided to defense counsel so as to put all parties on notice. A defendant whose case is filed mainstream under this policy deviation, may petition the Drug Court Judge to transfer the case into Drug Court. SPD and the King County Prosecutor will be given an opportunity to respond to the transfer request. The reasons, for which the objection is made, may be sufficient basis to exclude an otherwise eligible defendant. The Court will make the ultimate determination regarding eligibility when admission under this policy deviation has been raised.
- C. Transfer Request:** Defendants, whose cases have been filed mainstream, may ask to have the case reviewed again by the Prosecutor. Defense attorneys are to provide a completed transfer request and any supporting documents to the Drug Court Prosecutor for his/her review. A copy of the transfer request should also be provided to the Drug Court Prosecutor's paralegal.

#### **D. Rules Regarding Eligibility:**

1. The eligibility criteria are published; not open to discretion by the defense bar, the prosecutor's office or the court (except as noted in Section I D, 4) and will be adhered to strictly. Criteria were agreed upon by the Superior Court, the defense bar, the prosecuting attorney, chemical dependency experts, and law enforcement.
2. The court will not make exceptions to eligibility criteria. In cases where the prosecutor has deemed a defendant to be ineligible, a defendant may petition the court for acceptance to the program. In making a determination on the defendant's request, the court will consider only if the drug court eligibility criteria was appropriately applied.
3. There must be a reasonable basis to believe the defendant can successfully complete the DDC program after taking into consideration factors such as: The defendant's mental and/or physical health; past performance in DDC and living situation. The court will make the ultimate determination regarding eligibility when a "reasonable basis" for successful completion is in question.
4. Juvenile history may be considered at the discretion of the court.

#### **E. Eligibility Criteria**

##### **1) VUCSA**

- a) Possession
  - i) Cocaine/Heroin/Methamphetamine: 3-7 grams, cumulative value of drugs possessed and cash on person cannot exceed \$700
  - ii) Marijuana: 100-125 grams
  - iii) Prescription Pills: 50-100 pills
  - iv) MDMA: 20-50 pills
  - v) Exception: Defendants who possess less than 3 grams of heroin, cocaine, or methamphetamine AND who if convicted of felony possession, would be facing a standard range sentence of 12+ - 24 months in Department of Corrections, will have their cases direct filed into Drug Court as a felony - if otherwise eligible.
- b) Delivery
  - i) Cocaine/Heroin/Methamphetamine/Bunk
    - (1) Drugs sold cannot exceed 7 grams AND
    - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
  - ii) Marijuana
    - (1) Drugs sold cannot exceed 25 grams AND
    - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
  - iii) Prescription Medication
    - (1) Number of pills sold cannot exceed 50 AND
    - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
  - iv) MDMA
    - (1) Number of pills sold cannot exceed 20 AND
    - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
- c) Forged Prescription – Consistent with prosecutor felony standards except when no pills are actually obtained.

## 2) **Class B & C Felonies**

- a) Eligible Crimes
  - i) UIBC, Unlawful Issuance of Bank Checks
  - ii) Possession of Stolen Property in the 1<sup>st</sup> or 2<sup>nd</sup> degree
  - iii) Organized Retail Theft
  - iv) Theft 1 & 2
  - v) Failure to Return Leased Property
  - vi) Trafficking in Stolen Property 1 & 2
  - vii) Burglary 2
  - viii) Identity Theft 1 & 2
  - ix) Possession of Stolen Vehicle
  - x) Theft of Stolen Vehicle
  - xi) Cases in which the Prosecutor agrees to an amendment of the charge to a Drug Court eligible offense, and which the Prosecutor, Defense, and Court all agree that Drug Court is appropriate.



xii) Domestic violence property crimes and certain Felony Violation of a No Contact Order (two prior) and Felony Harassment cases are eligible for drug court only upon recommendation of DV EPU, victim approval, and law enforcement approval.

i. A defendant whose current Felony Violation of No Contact Order charge falls under the two prior conviction prong involving consensual or invited contact may be eligible depending on a full review of the available domestic violence history.

ii. A defendant whose current Felony Harassment case involves a parent/child relationship or siblings may be eligible depending on a full review of the available domestic violence history.

xiii) Escape 2 if committed while under the supervision of Drug Court.

xiv) A defendant charged with an eligible Class B Felony or Class C Felony, who is also charged with a Driving While Under the Influence / Physical Control arising out of the same criminal fact pattern, may bring that DUI / Physical Control to Drug Court.

a. Factors that Disqualify Defendant

i. Restitution exceeds \$2000

ii. Evidence that defendant manufactured IDs or targeted vulnerable victims or abused position of trust to get financial information or victim's information was stolen in a residential burglary, robbery, theft from a person, or defendant used/possessed more than three (3) victims' financial information or defendant opened more than three (3) accounts in a victim's name or the crime represents a significant breach of fiduciary duty.

iii. Evidence that the defendant is a major player in car theft: Defined as having had four (4) or more pending felony car theft charges and/or convictions resulting in four (4) or more points. Vehicle Prowl, and felony charges that stem from a vehicle prowling, are to be included in the scoring and shall each be weighted one third (1/3) point.

Felony car theft offenses include the following: TMV 1, TMV 2, PSV, Theft of a Motor Vehicle, and Theft 1, 2, PSP 1, 2 (if the charges are predicated upon a stolen car.). These offenses are to be weighted one (1) full point.

iv. Defendant's criminal history (as outlined in Section 3)

**(xii) Disqualifying Criminal History**

a. No prior sex misdemeanor or sex felony, nor violent felony offenses, nor felony assault, no matter how old, in the defendant's criminal history, as defined in RCW 9, unless specifically exempted in these standards.

i. A robbery in the second degree conviction will not automatically disqualify an otherwise eligible defendant from being offered drug court if the conviction is greater than five years old and did not involve the use of a weapon. Referral of cases to Drug Court, with

robbery priors, is subject to the prosecutor approval after a review of the facts of the underlying conviction. The Prosecutor may direct file these cases into Drug Court.

- ii. A conviction for Assault in the Third Degree will not automatically disqualify an otherwise eligible defendant from being offered Drug Court if the conviction is greater than five years old. Referral of cases to Drug Court, with the above conviction history, is subject to prosecutor and law enforcement approval after a review of the facts of the underlying convictions (e.g. Assault 3 that involves the use of a firearm will not be eligible). The Prosecutor may direct file these cases into Drug Court.
- b. A conviction for Violation of the Uniform Firearm Act or Theft Second Degree of a Firearm will not automatically disqualify an otherwise eligible defendant from being offered Drug Court if the conviction is greater than ten years old. Referral of cases to Drug Court, with the above conviction history is subject to prosecutor approval after a review of the facts of the underlying conviction. The prosecutor may direct file these cases into Drug Court.
- c. The 5/10 year bar described above should be measured from the time that the defendant finished serving his sentence on the underlying crime (probation/supervision time is not included) until the date of the new offense. The commission of other non-violent offenses does not "reset" this washout period.
- d. The current offense cannot involve a weapon.
- e. No Promoting Prostitution.
- f. A maximum of 4 prior Domestic Violence offenses in the defendant's criminal history in the past ten (10) years, misdemeanor or felony.
- g. A maximum of two Driving While Under the Influence convictions, including deferred prosecutions, within the past ten (10) years.
- h. No pending felony non-DDC eligible cases.
- i. An offender is ineligible for Drug Court if the current offense was originally filed as an expedited felony and the offender rejected the expedited offer.
- j. An offender is ineligible if they are currently on a DOSA sentence UNLESS the current offense predates the imposition of the DOSA and the offender is otherwise eligible.

#### **IV. REQUIREMENTS: PHASE I – STATUS PHASE**

##### **A. Purpose**

Phase I, the time period between DDC arraignment or transfer and formal entry into the DDC program, allows time for the prospective DDC participant to become fully informed of the requirements of DDC and the consequences of noncompliance prior to waiving trial and other rights. Phase I is also an opportunity for the prospective DDC participant to demonstrate to the court that he or she will meet the rigorous requirements of DDC. Phase I is approximately 30 days.

##### **B. Arraignment/Transfer**

Defendants deemed eligible for the program are scheduled for arraignment in DDC. If a case is not filed directly into drug court, a defendant can petition the prosecutor for transfer into the program. Eligibility for the program continues to be evaluated during Phase I.

At the initial hearing, the DDC judge briefly describes the conditions and expectations of DDC. Defendants have three primary options.

1. Enter a guilty plea and be sentenced by the DDC judge.
2. Plead not guilty and request that case be transferred out of DDC.
3. Participate in DDC orientation, assessment and referral to treatment.

### **C. DDC Orientation Session**

1. Preliminary Assessment: At the DDC orientation, a DDC case manager provides defendants with information regarding court and treatment expectations including Phase I requirements and provides defendants with a copy of the King County Drug Diversion Court Participant Handbook which details the requirements of DDC. The case manager also collects preliminary information from the defendant regarding their social, criminal, medical, and mental health histories, as well as information regarding the extent and nature of their substance use and treatment. The case manager screens each participant using a Risk and Needs Assessment Tool (RANT) screen to determine the level of structure and amount of treatment recommended for optimal participation in drug court.
2. Referral to Treatment Agency: Based on this information, the case manager schedules an intake and assessment appointment for the defendant at one of the DDC contract treatment agencies to occur within three days of the orientation.
3. Treatment and Assessment: At the treatment intake/assessment appointment the defendant receives a complete assessment in accordance with Washington Administrative Code (WAC) standards and current American Society of Addictive Medicine (ASAM) criteria and placement standards. The treatment assessment report is not provided to the prosecutor.
4. Initial Treatment Plan: The treatment agency develops an initial treatment plan within the first 30 days of assessment.
5. Confidentiality: Information regarding a defendant's participation in substance abuse treatment may be disclosed when the defendant has given informed consent in writing for the disclosure. Defendants are required to sign a release of information to participate in the program. Confidentiality restrictions do not apply to matters discussed in court on the record.

### **D. Phase I Requirements**

During Phase I defendants are required to:

1. undergo a comprehensive intake/assessment appointment at a treatment agency and participate in group and individual counseling sessions as directed by the agency;
2. undergo weekly urinalyses (UA's) tests;
3. attend sober support groups as indicated;
4. comply with the pretrial release conditions;

5. attend all court-ordered obligations; and
6. attend status hearings. The status hearing is set approximately two weeks after the arraignment or transfer hearing.
7. minimum requirements for opt in;

<b>Requirements for Opt-In</b>	
<b><u>Complete at 50 % or greater</u></b>	<b><u>Complete at 100 %</u></b>
Sober Support meetings	Meet with defense counsel on a date other than the scheduled court hearing date regarding the case
Groups/Individual Sessions	Attend Orientation and Intake
Take UA's	Attend Intake at treatment agency
	Attend Hearings (held every two weeks)
	Attend Question and Answer Session
	Apply for WA Apple Healthcare

8. A defendant wishing to participate will sign a contract with the prosecutor and his or her attorney (DDC Waiver and Agreement, see appendix A). If the defendant has satisfactorily completed the minimum Phase I requirements, the court may allow a formal entry (opt-in) into the program.
9. In order to graduate, the participant agrees to complete 24 hours of community service according to this table:

## **V. PROGRAM COMPONENTS**

### **A. DDC Phase Minimum Requirements**

<b>Drug Court Level</b>	<b>Urinalysis (random and observed)</b>	<b>Treatment Sessions</b>	<b>12 Step or Sober Support Group</b>	<b>Court Appearances</b>	<b>Community Service Hours</b>
Phase I	Minimum 2 Per Week	All Required	3 Per Week Quadrants 1&3	2 Per 4 Weeks	
Phase II	Minimum 2 Per Week	All Required	3 Per Week Quadrants 1&3	2 Per 4 Weeks	2
Phase III	Minimum 2 Per Week	All Required	3 Per Week Quadrants 1&3	1 Per 4 Weeks	10
Phase IV Day 1-60	Minimum 2 Per Week	All Required	3 per week Quadrants 1&3	1 Per 6 Weeks	12
Phase IV Day 61-120	Minimum 1 Per Week	All Required	Voluntary SS attendance All Quadrants	1 Per 6 Weeks	

- All treatment is individualized based on a participant's needs.

- The court may impose additional requirements -- such as more frequent court appearances, increased sober support meetings, more frequent UA's, etc.
- DDC participants are required to perform 24 hours of community service before graduating from the program.

**B. Post-Opt In DDC Phase Advancement Requirements**

General guidelines regarding completion of phases and advancement are as follows.

**1. Phase II**

A minimum of 90 consecutive days of 100% compliance with all DDC program requirements including:

- a) abstinence from drugs and alcohol, attendance at all treatment sessions required by the treatment agency;
- b) a minimum of 2 random, observed urinalyses (UAs) per week;
- c) verified attendance at sober support meetings as required;
- d) attendance at a drug court graduation;
- e) participation in any other court-ordered obligations/activities;
- f) payment of at least 20% of any restitution owed on DDC cases;
- g) completion of 2 community service hours towards the 24 hours ordered at opt-in.

**2. Phase III**

A minimum of 120 consecutive days of 100% compliance with all DDC program requirements including:

- abstinence from drugs and alcohol, attendance at all treatment sessions required by the treatment agency;
- a minimum of 2 random, observed urinalyses (UAs) per week;
- verified attendance at sober support meetings as required;
- attendance at empowerment class within 4 weeks of promotion to Phase III;
- development of an empowerment plan within 2 weeks of attending empowerment class;
- prior to promotion to Phase IV, involvement in a minimum of 19 hours per week of school, work training or volunteer service; separately or in combination.
- participation in any other court-ordered obligations/activities;

- payment of at least 50% of any restitution owed on DDC cases.;
- completion of 10 community service hours towards the 24 hours ordered at opt in.

### **3. Phase IV - FIRST 60 days**

- a) abstinence from drugs and alcohol, attendance at all treatment sessions required by the treatment agency.
- b) minimum of two random observed ua's per week.
- c) verified attendance at sober support meetings as required.
- d) participation in other court-ordered obligations.
- e) consistent engagement in a minimum of 19 hours per week of school, work,
- f) training or volunteer service; separately or in combination.

### **4. Phase IV - SECOND 60 days**

- a) abstinence from drugs and alcohol, attendance at all treatment sessions required by the treatment agency.
- b) minimum of one random observed ua's per week.
- c) no minimum of sober support meetings per week, attendance during the final 60 days of Phase IV is voluntary.
- d) participation in other court-ordered obligations.
- e) consistent engagement in a minimum of 19 hours per week of school, work, training or volunteer service; separately or in combination.

### **C. Phase Demotion**

The court may determine that a phase demotion is an appropriate response for a sanction .

### **D. Graduation Requirements**

1. Abstinence from drugs and alcohol for a minimum of 6 months. (The court may determine for an individual participant that less than 6 months of abstinence is required to graduate.)
2. Payment in full of any restitution owed.

3. Compliance with pre-graduation drug court requirements such as completion of a continuing care plan, letter to arresting officer, attendance at a prior graduation ceremony etc.
4. Involvement in a productive activity such as employment, job training, education or community service for a minimum of 19 hours per week.
5. Graduation requirements must be completed by the first hearing after promotion to phase IV, with the exception of restitution and community service hours.

#### **E. Review Hearings**

The review hearing provides an opportunity for the judge and other DDC team members to assess a defendant's progress in meeting DDC requirements, to administer appropriate sanctions and rewards, and to provide encouragement and support in a structured and formal setting.

1. Frequency: Hearings are generally scheduled every two weeks during Phases I and II, and every four to six weeks during Phases III and IV. The Court has the discretion to set hearings more or less frequently depending upon the needs of the participant.
2. Progress Reports: The DDC contract treatment agencies provide progress reports to DDC Services. The progress reports are to address all issues of treatment including: urinalysis results, attendance at sober support meetings, attendance at individual and group counseling sessions, and a participant's attitude and behavior. Progress reports are generally submitted to DDC Services no later than 3 business days prior to each scheduled hearing.
3. Rapid Response Hearings: Defendants who are out of compliance may have their hearing accelerated to address the compliance issues. The case manager, counselor or defendant may request placement on the Rapid Response Calendar. The court retains discretion to accommodate a request to accelerate a participant's hearing.

#### **F. Urinalysis Testing**

Urinalysis testing is central to the court's monitoring of participant compliance. Participants are responsible for ensuring that they are testing in accordance with DDC Phase requirements.

1. Participants agree that the court may generally rely on a presumptive chemical test result (urinalysis results). A participant may request a further confirming test of any positive urinalysis, but the participant agrees that if the confirming test comes back positive, the magnitude of the participant's sanction will likely increase or termination from the program may be considered based on dishonesty.
2. DDC treatment case managers may direct a participant to obtain a UA at any time.

3. Participant non-compliance: Non-compliance issues, such as positive urinalyses results and or behavioral issues are reported to DDC services via an incident report in a timely manner.
4. Fake /Adulterated Urinalysis Tests (UAs)
  - a. Fake/Adulterated UAs will result in a maximum 6 day jail sanction
  - b. If there is an admission when confronted, the participant will restart phase two and be staffed for zero tolerance for honesty until graduation.
  - c. If there is a denial when confronted, and the specimen is verified, the case will be staffed for termination.
5. Diluted UA A diluted UA is one where the creatinine level is 20 ng/ml or less and the specific gravity is 1.003 or less. This determination is based on the federal standards of dilution. A diluted UA is treated as a faked UA and will result in a maximum 6 day jail sanction If there is an admission when confronted, the participant will restart phase two and the participant's case will be staffed to determine next steps. Out-of-Range (OOR) UA an OOR UA is one where the creatinine level is 20 ng or below. The first OOR UA will result in a formal warning to the participant in court.  
After being warned, a participant who has any additional OOR UA will be treated as a positive UA and will result in a sanction.

#### **G. Sanctions and Incentives**

1. Sanctions- Participants who test positive for drugs, alcohol or other mood-altering substances, or fail to follow DDC requirements will receive a sanction. Further, a participant may be sanctioned or terminated from DDC if they conduct themselves in a manner contrary to DDC rules and regulations.
  - Sanctions are imposed in an effort to change behavior and will be clear, timely and match non-compliant behavior.
  - Sanctions of different magnitudes may be combined and or magnified to craft a therapeutically accurate sanction response. At times, the court may choose punishment rather than a therapeutic response.
2. Sanctions include but are not limited to:

<b>Sanctions – starred sanctions can be increased in magnitude</b>		
<b>Low</b>	<b>Medium</b>	<b>High</b>
Increased Court hearings	<b>* Jury Box Observation</b>	<b>* Work Crew</b>
Case Manager Check ins	<b>* Community Service Hours</b>	<b>* Jail</b>
Accountability Panels (Use related)	More complex essays	Demotion to earlier phase
<b>* Writing Assignments</b>	<b>* CCAP</b>	Combinations of low-medium range sanctions
Recovery-oriented Assignment	1 - 3 days jail	Referral to Work Release
Jury Box Observation/ Writing	Attendance Improvement Plan	Increased time in Work Release



Letter of Apology	Therapeutic Intervention - suspension	Losing place on housing list
Journaling-written, photo, theme (mood) etc. Use of recorder for journaling. (phone)	Compliance Improvement Plan	
Increased Sober Support		
Increased UA's		
Community assignment		

**Incentives:** Participants who comply with treatment requirements and DDC rules are rewarded and encouraged by the Court through incentives which include:

1. verbal praise;
1. a tangible rewards such as candy, coffee mug, pen, notebook, or gift card;
2. promotion to the next DDC level;
3. placement in a special "express" group whose cases are generally heard first on the calendar.

At Opt In all participants receive a bracelet with the phrase "keep it simple and smile"  
First express in drug court is always rewarded with a Starbucks card. Each subsequent express results in 1 draw from the fishbowl.

#### **H. Bench Warrants**

1. Noncompliance with DDC requirements may result in the issuance of a bench warrant.
2. Jail-time: Participants arrested on a DDC Bench Warrant may be held in-custody for several days before appearing before the drug court judge. Hearings will be scheduled at the court's discretion.
3. Defendants on warrant can request to address a bench warrant at the end of any DDC calendars, time permitting.
4. Bench warrants and administrative detox: a bench warrant issued in regard to a defendant receiving methadone initiates a special seven-day detox process.

#### **I. Graduation**

Graduation from DDC is marked by a specially set hearing. An Order of Dismissal of the Charge(s) is presented to graduates by the DDC judge. If a SODA order had been entered, that order would be quashed upon graduation.

#### **J. Other Requirements**

1. Honesty is essential to success in DCC. Participants will be rewarded for honesty and sanctioned for dishonesty. Dishonesty will result in a high magnitude sanction and may result in termination from the program.
2. A participant cannot leave the state without first obtaining permission from the court.
3. Possession, use or ownership of any firearms is prohibited. A participant cannot reside where a firearm is present.
4. Threatening, assaultive, disrespectful or disruptive behavior of any kind in DDC, at treatment or in the community at large will not be tolerated and may be grounds for immediate termination from the program.
5. Verifying Sober Support Meetings: Court will not accept meeting hall phone number on Sober Support verification sheets and will require the phone number of the person who signed the form. The meeting chair or secretary are the only signatures/phone numbers the court will accept for verification of attendance.

**K. Policy on Missed Groups and One on One's and Make Up Requirements**

1. No treatment agency can excuse missed groups or one on one's.
2. The participant must contact their drug court case manager (DCCM) (and/or treatment counselor)? Prior to missing the group or one on one with details and plans to provide verification of the reason for the miss. Failure to do so will result in a sanction.
3. The DCCM will be given discretion to approve or disapprove the miss. If the defendant contacts their DCCM after the miss, the presumption is that they will be sanctioned.
4. If the DCCM recommends a sanction and the participant wants to appeal, the primary responsibility falls on the participant to make contact with their attorney and initiate the appeal process.

**L. Termination**

Due to many factors, there are instances when a DDC participant's continuation in the DDC program is unproductive for the participant, the program or both.

Termination from DDC may be voluntary or involuntary. A participant may decide to terminate from the program because the program can no longer serve the needs of the participant (voluntary), or either party or the court, sua sponte, may at any time during the program, recommend that a participant be terminated from the program due to non-compliance or breach of any of the rules of DDC (involuntary).

An involuntary termination will be addressed through traditional motion practice. The termination hearing will be heard by the sitting DDC judge unless that judge recuses him or herself, in which case, the termination will be heard by the other sitting drug court judge. The decision to terminate should be based on what is in the record. Rulings that have been made remain the law of the case and are not subject to relitigation. When necessary, the court will review the FTR Gold recording of prior drug court hearings. Unless the court authorizes, witnesses will not be subpoenaed to testify. The burden of proof is on the state to prove, by

a preponderance of the evidence, that the defendant has violated the Waiver and Agreement. Considering the established violation(s), the court will then determine if termination is the appropriate remedy.

In making the decision to terminate a participant from the DDC, the Court shall consider a participant's past efforts regarding compliance and progress in the program. If the motion for termination is granted, a stipulated trial and sentencing, if appropriate, will follow. The following violations may result in termination. List is not exclusive.

1. Dishonesty to the court.
2. Positive Urinalysis or Breath Analysis
3. Missing UA's or individual treatment sessions.
4. Missing sober support meetings as required.
5. Non-compliance with required treatment program.
6. Presenting falsified UA's, or falsified documentation of community service, or sober support group meetings to the Court or to treatment personnel.
7. Failure to abide by the terms of the DDC agreement or mandates in the handbook.
8. Threatening, assaultive, disrespectful or disruptive behavior of any kind in DDC, at treatment or in the community at large.
9. Arrest for a new offense. (see new offense grid, Section VI B)
10. Using prescription drugs or over the counter drugs without first obtaining the approval of treatment and DDC.
11. Failure to pay restitution.
12. Willful failure to appear at hearings.
13. Inability of the defendant to regularly participate in required treatment, including urinalysis testing; treatment sessions, sober support group meetings, and/or review hearings with the court.

## **VI. SPECIAL POLICIES**

### **A. Policy Regarding Prescription Drugs**

General Policy: As a general rule, defendants in DDC are expected to be drug free, including the use of mood-altering prescription medications. While a person may be disqualified for participation in drug court because of the nature of the medications he or she is prescribed, the court shall not become involved in the decision regarding appropriate medications for a participant in the program. DDC defendants who take prescription medications, or other mood-altering substances that would cause a positive urinalysis result while in DDC, may be sanctioned or terminated according to the following guidelines.

## 1. Specific Situations

- a) Participants with chronic pain: DDC participants with chronic conditions requiring repeated use of prescription medication (opiate, opiate-based, amphetamine-based or benzodiazepine medications, or medical marijuana) are often not good candidates for the DDC program. In order to participate in DDC, the use or alteration of these medications must be addressed.
- b) Participants who opt into drug court and then experience an episode of acute pain: participants, who opt into drug court and then experience an episode of acute pain, must have a special form completed by their doctor. The doctor must indicate on the form that he or she is aware that the participant presenting the form is in DDC and is expected to remain drug free except in extreme instances.

Forms are available through the court and treatment. Completed forms should be provided to the Court at participant's next hearing and to the treatment provider at participant's next appointment. Forms will include the following:

- doctor's name and signature;
  - medication prescribed;
  - amount prescribed (including refills);
  - reason for prescription; and
  - duration of treatment.
- c) Participants who take other prescribed medications must get approval from their treatment agency for over the counter or prescribed medication prior to using such medication. The Court has the discretion to rule that a defendant's legally prescribed medication is inconsistent with the court's ability to monitor program compliance. Use of prescription drugs, other than psychotropic and antibiotics, may impact a participant's clean time and progress in DDC.

## B. New Offenses

Status/Type of New Offense	Phase I	Phase II	Phase III	Phase IV
<b>New offense is <u>Eligible</u> for drug court under current KC Drug Court Eligibility Criteria.</b>	Case can come into DDC.	Case can come into DDC if participant agrees to the high end of the standard range on each offense in the event of termination.	<p>Case may come into drug court IF the new offense is not in the <u>same category</u> as the original case filed into drug court.</p> <p>Participant must agree to the high end of the standard range on each offense in the event of termination.</p> <p>A finding of probable cause on the eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:*</p> <ul style="list-style-type: none"> <li>• Termination</li> <li>• Requirement that defendant restart the drug court program</li> <li>• Modification of treatment requirements.</li> <li>• Incarceration pending resolution of case.</li> </ul> <p><b>* List is not exclusive</b></p> <p><b>For categories see: KCDC: SCREENING, REFERRAL AND ELIGIBILITY (revised 11.1.2010) Section E., 1. - VUCSA Crimes or Section E. 2, Class B &amp; C felonies.</b></p>	<p>Case will not come into drug court.</p> <p>A finding of probable cause on the new eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:*</p> <ul style="list-style-type: none"> <li>• Termination</li> <li>• Requirement that defendant restart the drug court program</li> <li>• Modification of treatment requirements.</li> <li>• Incarceration pending resolution of case.</li> </ul> <p><b>* List is not exclusive</b></p>
<b>New offense is <u>Non-eligible</u> for drug court under current KC Drug Court Eligibility</b>	All pending cases will be handled mainstream.	<p>The non-eligible case will remain mainstream. The court may permit the defendant to remain in both systems if it appears that the mainstream case will not substantially disrupt treatment.</p> <p>A finding of probable cause on the non-eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:*</p> <ul style="list-style-type: none"> <li>• Termination</li> <li>• Requirement that defendant restart the drug court program</li> <li>• Modification of treatment requirements.</li> <li>• Incarceration pending resolution of ineligible cases.</li> </ul>		

Status/Type of New Offense	Phase I	Phase II	Phase III	Phase IV
		<b>* List is not exclusive</b>		
<b>Violent or Sex Offense as Defined by SRA (misdemeanor or felony)</b>	All pending cases will be handled mainstream.	Strong presumption of termination if the DDC judge finds there is probable cause to believe that defendant committed crime. Conviction is not required		
<b>Domestic Violence Offense (misdemeanor or felony)</b>	All pending cases will be handled mainstream.	Strong presumption of termination if the DDC judge finds there is probable cause to believe that defendant committed crime. Conviction is not required		
<b>DUI misdemeanor or</b>	Strong presumption that all pending cases will be handled mainstream upon arrest and a judicial finding of probable cause for Physical Control, and Driving Under the Influence. Conviction is not required	Strong presumption for termination upon arrest and a judicial finding of probable cause for Physical Control, and Driving Under the Influence. Conviction is not required		
<b>New Offense is eligible for drug court, but is in the same category of offense (VUCSA)</b>	Case can come into DDC.	Case can come into DDC if participant agrees to the high end of the standard range on	The new case is treated as an ineligible case and will remain mainstream. The court may permit the defendant to remain in both systems if it appears that the mainstream case will not substantially disrupt treatment. A finding of probable cause on the non-eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:* <ul style="list-style-type: none"> <li>• Termination</li> <li>• Requirement that defendant restart the drug court program</li> </ul>	

Status/Type of New Offense	Phase I	Phase II	Phase III	Phase IV
<p>delivery type or property crime) as the current drug court case.</p> <p>For categories see: KCDC: SCREENING, REFERRAL AND ELIGIBILITY (revised 11.1.2010) Section E., 1. - VUCSA Crimes or Section E. 2, Class B &amp; C felonies.</p>		<p>each offense in the event of termination.</p>	<ul style="list-style-type: none"> <li>• Modification of treatment requirements.</li> <li>• Incarceration pending resolution of ineligible cases.</li> </ul> <p><b>* List is not exclusive.</b></p>	

### **C. Transitional Recovery Program (TRP)**

The Transitional Recovery Program is a minimum 60 day in-custody treatment program.

1. There is a presumption that a defendant will begin their participation in DDC by completing the Transitional Recovery Program (TRP) in the jail if:
  - a) the defendant scores High Needs/High Risk on the Rant assessment and is charged with the crime of VUCSA Delivery or Possession with Intent to Deliver a Controlled Substance (excluding marijuana)
  - a) the defendant is facing Department of Correction commitment time if convicted may be required to complete the Transitional Recovery Program in the jail at the beginning of their DDC participation.
2. DDC may require a participant to complete the Transitional Recovery Program as a condition of remaining in the DDC.
3. Following completion of the Transitional Recovery Program, the court reserves the ability to order controlled release into the community which may include Work Education Release, Community Center for Alternatives Program or verified clean and sober housing. The DDC Team will staff a participant's case midway through participant's time in the Transitional Recovery Program to plan for an appropriate release model.

### **D. Accelerated Drug Court Model**

Defendants that successfully complete a long-term inpatient treatment program may be eligible for an accelerated drug court model. In order to qualify drug court participants must:

1. successfully graduate from a minimum six-month Long Term Inpatient Treatment (LTIPTX) program;
2. resume chemical dependency (CD) treatment in the community upon completion of the inpatient program. (At a minimum the participant must be providing UA's and attending sober support meetings);
3. maintain 100% compliance for a period of five consecutive months. In the accelerated drug court model, Phase II is 30 days, Phase III is 60 days, and Phase IV is 60 days with graduation occurring on the next available graduation day after 60 days on Phase IV; (phase four will not be bifurcated as the traditional model is designed)
4. a sanction at any point eliminates the accelerated model as an option and the participant returns to the traditional drug court model. A defendant who is moved from the accelerated model to the traditional model will be placed at the beginning of whatever phase he/she has risen to); and
5. A defendant, who at time of entry into long term inpatient treatment is in DDC phase 3 or 4, still must complete five consecutive sanction free months following inpatient treatment.

### **E. Re-entry to Drug Court Following Graduation**

Defendants who receive new drug court eligible VUCSA charge following graduation from DDC will be allowed to re-enter DDC. Defendants who receive a non-VUSCA



charge are not eligible to return to Drug Court unless the charge occurs at least two years after a defendant's graduation date.

## **VII. YOUNG ADULT TRACK**

The 18-25 year old population is a challenging client population to serve in DDC. Drug courts around the nation have been hesitant to identify and approach this population differently from the typical adult population age 26 years and older.

The young adult requires a person- centered approach aimed at addressing needs such as; housing, education, vocation and employment, mental health, chemical dependency treatment and life skills. The young adult is typically unmotivated for treatment, developmentally inappropriate for typical adult drug and alcohol treatment, dealing drugs and or involved in criminal activity to support their lifestyle, and may not meet the criteria for addiction. This population spends more time in the pre opt phase, is sanctioned at a higher rate once in the program and their retention rate in the program is lower.

### **Young Adult Track: Key Components**

All defendants referred to KCDDC who are between the ages of 18 and 24 and score as High Risk and High Needs per the Risk and Needs Triage tool (RANT) will be referred to the Young Adult Drug Court Track. (YAT)

The YAT utilizes the assessment/ screening tools, clinical approaches and support services proven effective in treating young offenders. Emphasis is on accurately identifying needs, developing and continually revisiting and revising an individualized plan of action.

The YAT employs different responses to noncompliance based on the nature of the infraction and the participant's behavior in relation to the infraction. The response will be therapeutic if the young adult's lack of compliance is related to drug or alcohol use or scheduling challenges which are considered "distal" in the earlier stages of sobriety. If the non-compliance is related to a "proximal" behavior that can be directly correlated to an increase in criminogenic risk, the Court's response will be presumptively punitive in nature, and will be chosen from a non-exclusive list which includes jail time, work crew and day reporting.

The YAT participant sets long and short-term goals and progression from one phase of drug court to another is dependent on achievement of goals in addition to accumulation of sobriety. The track is designed to increase a participant's intrinsic motivation and engender a sense of empowerment.

### **See Appendix B for Young Adult Track Program Specifics**

## **VIII. Appendixes**

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF KING**

STATE OF WASHINGTON,

Plaintiff

No.

vs.

**DRUG DIVERSION COURT  
WAIVER AND AGREEMENT**

Defendant

CCN \_\_\_\_\_

CLERK'S ACTION REQUIRED (AG)

**DRUG DIVERSION COURT WAIVER OF RIGHTS AND AGREEMENT OF THE PARTIES**

- **I have been informed and fully understand that I have the following important rights.**
- **I understand that I give up the following important rights by entering Drug Diversion Court:**

1. The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
2. The right to remain silent before and during trial, and the right to refuse to testify against myself;
3. The right at trial to testify and to hear and question the witnesses who testify against me;
4. The right to have witnesses testify for me at trial. These witnesses can be made to appear at no expense to me.
5. With respect to this/these charge(s), I understand that I have a right to contest and object to evidence that the State may present against me and to present evidence on my own behalf. With respect to this/these charge(s), I give up the right to contest and object to any evidence presented against me and to present evidence on my own behalf as to my guilt or innocence. I understand and agree that if I do not comply with the conditions of this agreement, a hearing will be held at which the State will present evidence related to this/these charge(s) including but not limited to the police report and the results of any law enforcement field test. I stipulate that the field test used in this case was accurate and reliable, and is admissible. This stipulation is not an admission of guilt, and is not sufficient, by itself, to warrant a finding of guilt. I understand that the judge will review the evidence presented by the State and will decide if I am guilty or not guilty of this charge based solely on that evidence. I waive my right under Criminal Rule 6.1(d) to written findings of fact and conclusions of law.

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF KING**

STATE OF WASHINGTON,

Plaintiff

No.

vs.

**DRUG DIVERSION COURT  
WAIVER AND AGREEMENT**

Defendant

CCN \_\_\_\_\_

CLERK'S ACTION REQUIRED (AG)

**DRUG DIVERSION COURT WAIVER OF RIGHTS AND AGREEMENT OF THE PARTIES**

- **I have been informed and fully understand that I have the following important rights.**
- **I understand that I give up the following important rights by entering Drug Diversion Court:**

1. The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
2. The right to remain silent before and during trial, and the right to refuse to testify against myself;
3. The right at trial to testify and to hear and question the witnesses who testify against me;
4. The right to have witnesses testify for me at trial. These witnesses can be made to appear at no expense to me.
5. With respect to this/these charge(s), I understand that I have a right to contest and object to evidence that the State may present against me and to present evidence on my own behalf. With respect to this/these charge(s), I give up the right to contest and object to any evidence presented against me and to present evidence on my own behalf as to my guilt or innocence. I understand and agree that if I do not comply with the conditions of this agreement, a hearing will be held at which the State will present evidence related to this/these charge(s) including but not limited to the police report and the results of any law enforcement field test. I stipulate that the field test used in this case was accurate and reliable, and is admissible. This stipulation is not an admission of guilt, and is not sufficient, by itself, to warrant a finding of guilt. I understand that the judge will review the evidence presented by the State and will decide if I am guilty or not guilty of this charge based solely on that evidence. I waive my right under Criminal Rule 6.1(d) to written findings of fact and conclusions of law.

6. I agree to complete the treatment program as instructed by the Court. I agree that I will not change treatment programs without first getting approval of the Court.
7. I agree to sign a waiver allowing the treatment provider to release information regarding my treatment to the Court, defense counsel, prosecuting attorney, and Drug Diversion Court Services staff. This information shall only be used to monitor compliance in this case and for no other purpose.
8. I understand and agree that I am responsible for obtaining a Participant Handbook from the Court and for knowing all of the rules and procedures contained in it, including any future amendments of which I am provided written notice.
9. I agree that I will not knowingly associate with any person possessing or using illegal drugs. I also agree that I will refrain from loitering in any area known for drug trafficking, and if ordered by the court, will stay out of specific areas associated with drug trafficking.
10. I understand and agree that I may not possess or use any firearm while I am in Drug Diversion Court.
11. I agree that I will not work with any police agency on any criminal cases or on any case where I may come into contact with illegal drugs. Nothing in this agreement shall prevent me from voluntarily providing information to a police agency regarding my past involvement with illegal drugs.
12. I agree to pay a \$100 participation fee on a schedule set by the Court OR, in the alternative, to complete 24 community service hours done only for the purpose of satisfying this participation fee. Funds paid are not refundable. (I understand that no one is excluded from participation in Drug Court because of inability to pay participant fees.)
13. I agree to pay any and all restitution owing as a result of the crimes encompassed in these case number(s). I understand that I will not be allowed to graduate from Drug Court or have my case(s) dismissed, unless restitution is paid in full. I further understand that my progress in Drug Court will be affected by my progress in restitution payments. I acknowledge and accept that I may be terminated from Drug Court if I do not satisfy my restitution obligation in a timely manner, whether the failure to pay is willful or not.  

☐ **No restitution owed**☐ **Restitution order attached**
14. I understand and agree that any violation of Drug Court requirements such as dirty urinalysis tests, missing treatment sessions, any failure to abide by the terms of this agreement, or commission of a new crime, may result in modification of the treatment program, imposition of a sanction, revocation of my conditional release, and/or termination from the program.

15. In considering the consequences of my entry into this waiver and agreement I understand that if I am terminated from Drug Diversion Court:

COUNT I \_\_\_\_\_

The crime with which I am charged carries a sentencing range of \_\_\_\_ to \_\_\_\_ months with a maximum penalty of five/ten (5/10) years in prison and a \$10,000/\$20,000 fine. ☐ Disputed

COUNT II \_\_\_\_\_

The crime with which I am charged carries a sentencing range of \_\_\_\_ to \_\_\_\_ months with a maximum penalty of five/ten (5/10) years in prison and a \$10,000/\$20,000 fine. ☐ Disputed

COUNT III \_\_\_\_\_

The crime with which I am charged carries a sentencing range of \_\_\_\_ to \_\_\_\_ months with a maximum penalty of five/ten (5/10) years in prison and a \$10,000/\$20,000 fine. ☐ Disputed

- a. I believe that the standard range(s) as set forth above, unless otherwise noted, accurately reflect(s) my criminal history known at this time. If I am convicted of any additional crimes between now and the time I am sentenced on this charge, I am required to tell the sentencing judge about those new convictions. If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, this agreement is binding on me and I cannot change my mind even though the standard sentencing range and prosecuting attorney's recommendation may increase.
- b. In addition to sentencing me to confinement for the standard time, the judge will order me to pay \$500 to a victim's compensation fund. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and incarceration, lab, and attorney fees. In addition, the judge may place me on community supervision, community placement or community custody, impose restrictions on my activities, require rehabilitative programs, treatment requirements, or other conditions, and order me to perform community service.
- c. The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either the State or I can appeal the sentence.
- d. In addition to confinement, the judge will sentence me to a period of community supervision, community placement or community custody:
  - For crimes committed prior to July 1, 2000, the judge will sentence me to: community supervision for a period of up to one year; or
  - to community placement or community custody for a period of up to three years or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge. \_\_\_\_\_]

- For crimes committed on or after July 1, 2000, the judge will sentence me to the community custody range which is from \_\_\_\_\_ months to \_\_\_\_\_ months or up to the period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer, unless the judge finds substantial and compelling reasons to do otherwise. During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will result in the Department of Corrections transferring me to a more restrictive confinement status or imposing other sanctions. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge. \_\_\_\_\_]
- e. The judge may sentence me as a first time offender instead of imposing a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence may include as much as 90 days of confinement and up to two years community supervision if the crime was committed prior to July 1, 2000, or up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph 15.b. The judge may also require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If not applicable, this paragraph should be stricken and initialed by the defendant and the judge. \_\_\_\_\_]
- f. The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under former RCW 9.94A.120(6) (for offenses committed before July 1, 2001) or RCW 9.94A.660 (for offenses committed on or after July 1, 2001). (Effective for sentences imposed on or after October 1, 2005, the court may sentence me to a prison based alternative.) This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph 15.b.. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range. Effective for sentences imposed on after October 1, 2005, the judge may sentence me to a residential chemical dependency treatment-based alternative. This sentence could include a term of community custody for one-half of the midpoint of the standard range or two years, whichever is greater, on the condition that I enter and remain in residential chemical dependency treatment for three to six months, plus all of the conditions described in paragraph 15.b. During community custody, I will be required to undergo substance abuse assessment and participate in treatment as provided by the Department of Corrections. At a treatment termination hearing scheduled three months before the expiration of the term of community custody, the judge could impose a term of total confinement equal to one-half of the midpoint of the standard sentence range followed by a term of community custody. During confinement, I would be required to undergo substance abuse assessment and participate in treatment as provided by the Department of Corrections. Any term of community custody imposed upon me under the special drug offender sentencing alternative must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, including affirmative conditions.
- g. If I am not a citizen of the United States, I understand that a finding of guilty on this/these offense(s) is grounds for deportation. I also may not be allowed to enter the United States, or be denied naturalization according to the laws of the United States.



- h. If found guilty, I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.
- i. If found guilty, I understand that I will be ineligible to vote until that right is restored in a manner described in RCW 10.64 [2005 Wash. Laws 246 1] If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, 3, RCW 29A.04.079, 29A.08.520.
- j. If I am found guilty of a drug offense that involves a motor vehicle, I understand that my driver's license or privilege to drive will be suspended or revoked.
- k. If I am found guilty of a violation of the state drug laws, I understand that my eligibility for state and federal food stamps, welfare, housing, and education benefits will be affected. 20 U.S.C. 1091 (r) and 21 U.S.C. 862a.

- 16. I freely and voluntarily enter into this agreement.
- 17. No one has threatened to harm me or any other person to get me to enter into this agreement.
- 18. No person has promised me anything to get me to sign this agreement except as written in this document.
- 19. Upon successful completion of Drug Court, Including the full satisfaction of any restitution obligation, all criminal charges pending against me under this (these) cause number(s) will be dismissed with prejudice.

My lawyer and I have reviewed and discussed all of the above paragraphs 1 through 19. I understand them all and do hereby knowingly give up these rights and enter into these agreements with the State

Dated: \_\_\_\_\_

\_\_\_\_\_  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

I am fluent in the \_\_\_\_\_ language, and I have translated this entire document for the Defendant from English into that language. The Defendant has acknowledged his/her understanding of both the translation and the subject matter of this document. I certify under penalty of Perjury, under the laws of the State of Washington, that the foregoing is true and correct.

\_\_\_\_\_  
Interpreter



## **APPENDIX B**

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### **KING COUNTY DRUG DIVERSION COURT: YOUNG ADULT PROGRAM SUMMARY August 2013**

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The 18-25 year old population is a challenging client population to serve in drug diversion court. Drug courts around the nation have been hesitant to identify and approach this population differently from the typical adult population age 26 years and older. The consensus is that the young adult population is more challenging.

The young adult requires a person centered approach aimed at addressing various needs; housing, education, vocation and employment, mental health, chemical dependency treatment and life skills to name a few. The young adult is typically unmotivated for treatment, developmentally inappropriate for typical adult drug and alcohol treatment, dealing drugs and or involved in criminal activity to support their lifestyle, and may not meet the criteria for addiction. This population spends more time in the pre opt phase, is sanctioned at a higher rate once in the program and the retention rate is low.

#### **Young Adult Track: Key Components:**

The young adult drug court track employs the assessment/ screening tools, clinical approaches and support services proven effective in treating young offenders. Emphasis is on accurately identifying needs, developing and continually revising a plan of action.

The young adult drug court participant sets long and short -term goals and progression from one phase of drug court to another and is dependent on achievement of goals in addition to accumulation of sobriety. The track is designed to increase a participant's intrinsic motivation and engender a sense of empowerment.

## **Response to Behaviors/Sanctions**

The young adult track in drug court employs different responses to noncompliance based on the nature of the infraction and the participant's behavior in relation to the infraction. The response will be therapeutic if the young adult's lack of compliance is related to drug or alcohol use or scheduling challenges which are "distal" in the earlier stages of sobriety. If the non-compliance related to a "proximal" behavior that can be directly correlated to an increase in criminogenic risk,<sup>1</sup> the Court's response will be presumptively punitive in nature, and will be chosen from a non-exclusive list which includes jail time, work crew and day reporting.

### **Therapeutic Intervention (TI):**

- TI's may include jury box observation, increased treatment sessions, essay writing, increased sober support meetings, or compliance with mental health recommendations. The Drug Court Case Manager (DCCM) will recommend a TI in response to a (previously disclosed) positive urinalysis test (UA), or missed treatment event. Issuance of a TI may result in the loss of accrued days of abstinence but avoid a court sanction. The TI as recommended by the DCCM must be completed within a time frame specified by the DCCM.
- A TI will be recommended by DCCM for each missed treatment event and or previously disclosed positive UA in a reporting period not to exceed the limit per reporting period. Missed treatment events include but are not limited to; missed one on one appointment, missed mental health appointment, missed group, missed sober support meeting, missed scheduled meeting w/ Drug Diversion Court Services staff, i.e. Treatment, Housing, and REACH case managers or other missed appointments.
- 3 or more TI's within a reporting period in Phases I and 2, results in a Court Sanction.

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<sup>1</sup> Such as new charges, Stay Out of Drug Area (SODA) violations, bench warrants, disrespectful behavior at treatment or in the community.

- 2 or more TI's within a reporting period in Phase 3, results in a Court Sanction.
- During Phase 4, a participant will only be eligible for a TI for use related activity with full pre-disclosure of use prior to testing.
- If a participant is assigned a TI w/o sufficient time to complete prior to next hearing, the hearing result is recorded as TBD (to be determined). If a participant earns two consecutive hearing outcomes of TBD, he/she will then face a court sanction.
- Restrictions in use of TI's may apply if a participant is persistently earning TI's for the same behavior. This will be determined on a case by case basis by the Court.
- Reporting periods are the time between court hearings for the pilot population, generally two weeks.
- All missed/positive UA's will trigger the resetting of accrued days of abstinence for the phase.

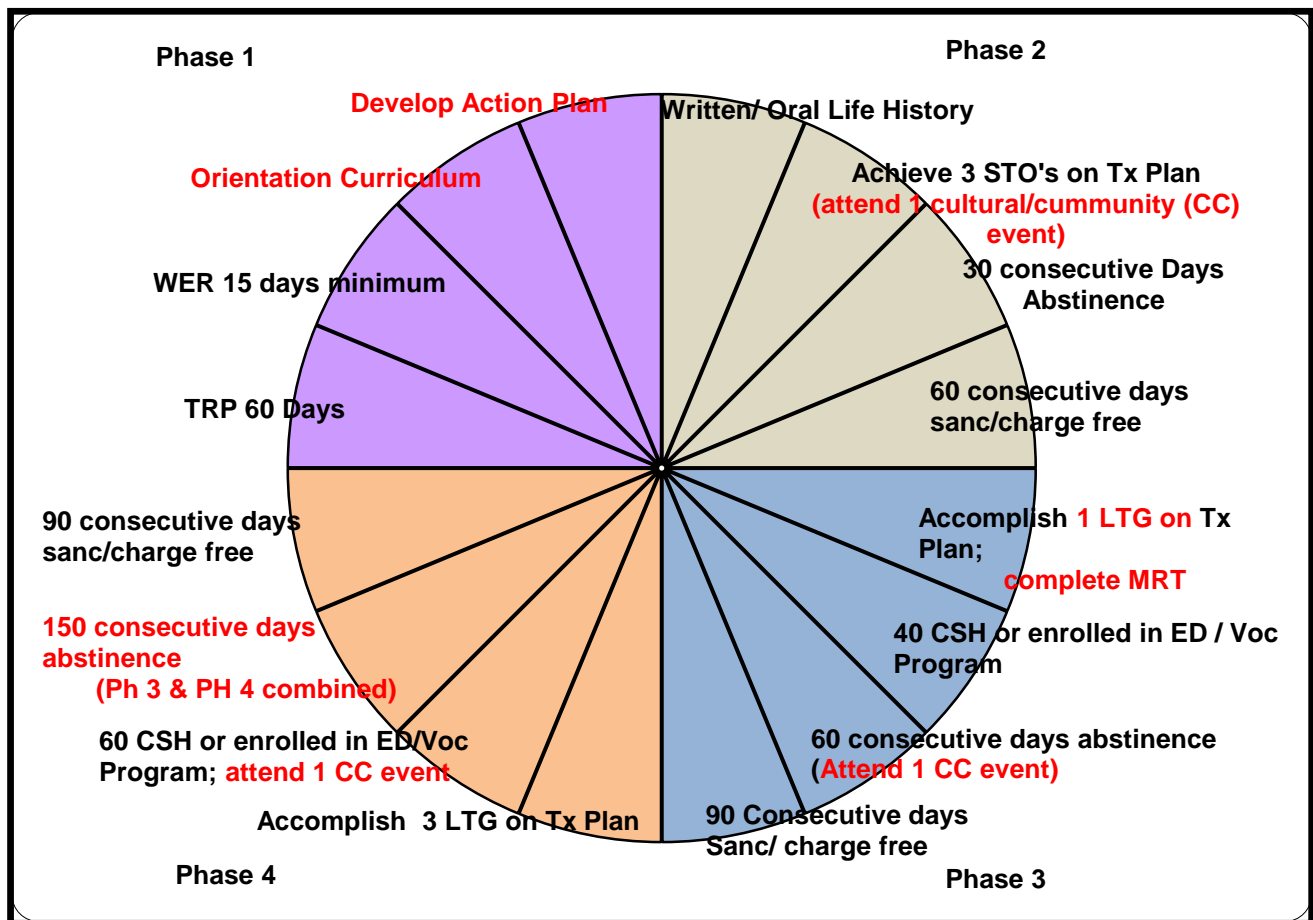
#### 1. **Court Sanction (CS):**

- Response from the court for behavior that can be directly correlated to an increase in the criminogenic risk, failure to complete a TI as assigned, too many TI's in reporting period, missed UA, disrespectful behavior at treatment or in the community, undisclosed positive UA.
- Court sanctions are presumptively punitive in nature and will be chosen from a non-inclusive list which includes jail time, work crew and day reporting.
- All CS's will trigger the resetting of accrued days of portfolio compliance for the phase at minimum and may result in further action by the court such as Community Work Crew, jail, Community Corrections Alternative Program, Community Service Hours and termination.
- A CS in Phase 4 will trigger a minimum requirement of 150 consecutive day's abstinence in order to graduate.
- A CS that is not completed as assigned will result in further action from the court and could include a doubling of the sanction and possible

termination. Both TI and CS will be adapted to match the behavior and needs of the community.

### Phase requirements:

The Pie Chart below depicts the requirements of each Phase of the Pilot Program. Each of the phases includes minimum requirements related to completion of components of the participant portfolio.



**Figure 1: Young Adult Track: Phase Requirements' Wheel**

- STO= Short Term Objective (steps toward Long Term Goal)
- LTG= Long Term Goal (for example GED, DR License, Employment, custody of children)

## **Pre Opt Phase 1 ENGAGE**

- IF charged with delivery, possession with intent (PWI) or a case with a prison time sentence = referral to the Transitional Recovery Program (TRP) (in-custody treatment program) for 60 days to initiate treatment engagement. Intake, GAIN SS Assessment, Mental Health Symptoms Rating Scale, Chemical Dependency Assessment, and RANT will take place at the TRP.( All other participants will be screened at KCDDC Orientation and Intake. )
- Begin Intensive Outpatient Treatment.
- DCCM / Pioneer staff to complete Mental Health (MH) Assessment at or around 30 day mark.
- Drug Court staffing (6weeks at TRP) to discuss client progress and next steps. (following MH assessment)
- Structured release model Work Education Release (WER), CCAP, treatment, two week court returns, complete Orientation and Intake w/ Drug Court Services (DCS).
- 15 days violation free in WER regardless of housing situation
- Orientation Curriculum: Chemical Dependency assessment/ substance abuse education/ Psychiatric Consult/ Treatment plan design; Intro to MRT;; Housing 101; Education, Vocation, Employment 101; ; Pilot Program Orientation; Court approved “action plan” with at a minimum three Long Term Goal’s in the following areas: Chemical Dependency; Mental Health/ Health; Family; Employment; Education; Legal.
- Attendance at one Question and Answer session.
- Attendance at one Thursday Check- In before converting to weekly 1:1 appointments w/ DCCM for action plan development.
- Minimum one 1:1 with the Housing CM for goal development regarding long term housing.
- Minimum one 1:1 with the REACH CM for goal development regarding employment, education, vocational training and ancillary services.

- Present “action plan” to the court. (How will you engage in your program?) Upon court approval, defendant can opt into the program. A review of each defendant “action plan” to take place at each hearing.

### **Opt In Phase 2 ATTEND**

- Two week court returns
- Present action plan to the court at each hearing prepared to discuss with the court. (How you will you profit from your program?)
- Court will engage and encourage, treatment will promote a foundation of abstinence, participant will seek positive community support
- Participation in 1 structured community event/ cultural activity.
- Semi-Monthly engagement with DCCM for action plan development. (minimum)
- Monthly engagement with DC Housing CM for action plan development. (minimum)
- Monthly engagement with REACH CM for action plan development.(minimum)
- 3 SS per wk- substitutions per the court.
- Present achievements / portfolio to court to promote to next phase.

### **Phase 3 APPLY**

- Two week returns to court.
- Court will engage and encourage; treatment will promote continued skill development, participant will progress toward identified goals, achievements, abstinence, community reintegration, identify education/employment goals.
- 4-6 volunteer hours per week **or** participation in education program **or** vocational training, **or** legitimate employment.
- Participation in 1 structured community event/ cultural activity.
- Monthly engagement with DCCM for action plan review.

- Monthly engagement with DC Housing CM for action plan development.
- Monthly engagement with DC REACH CM for action plan development.
- 3 SS per week- substitutions per the court
- Present achievements / portfolio to court for promotion to next phase.

#### **Phase 4 EXCEL**

- Two week returns to court.
- Court will engage and encourage; treatment will promote continued skill development, participant will attain and re-establish goals for abstinence, community reintegration, education and employment.
- 5-6 volunteer hours per week **or** participation in education program **or** vocational training **or** employment.
- Engagement with DCCM for action plan review as needed.
- Monthly engagement with DC Housing CM for action plan development.
- Monthly engagement with DC REACH CM for action plan development.
- Participation in 1 structured community event/ cultural activity.
- 3 SS per wk – substitutions per the court.
- Court presentation; what I have accomplished / portfolio, my new goals, the plan I have developed to achieve my new goals.

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5107**

Chapter 291, Laws of 2015

64th Legislature  
2015 Regular Session

THERAPEUTIC COURTS

EFFECTIVE DATE: 7/24/2015 - Except for section 9, which becomes  
effective 7/1/2018.

Passed by the Senate April 16, 2015  
Yeas 47 Nays 0

BRAD OWEN

**President of the Senate**

Passed by the House April 14, 2015  
Yeas 97 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Approved May 18, 2015 2:15 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of  
the Senate of the State of  
Washington, do hereby certify that  
the attached is **SENATE BILL 5107** as  
passed by Senate and the House of  
Representatives on the dates hereon  
set forth.

HUNTER G. GOODMAN

**Secretary**

FILED

May 18, 2015

**Secretary of State  
State of Washington**



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**SENATE BILL 5107**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**State of Washington                      64th Legislature                      2015 Regular Session**

**By** Senators Padden, Pedersen, Roach, O'Ban, Darneille, and Benton

Read first time 01/14/15. Referred to Committee on Law & Justice.

1        AN ACT Relating to authorizing, funding, and encouraging the  
2 establishment of therapeutic courts; amending RCW 82.14.460,  
3 9.94A.517, 9.94A.517, and 70.96A.350; adding a new chapter to Title 2  
4 RCW; creating a new section; repealing RCW 2.28.170, 2.28.175,  
5 2.28.180, 2.28.190, 13.40.700, 13.40.710, 26.12.250, 2.28.165, and  
6 2.28.166; providing an effective date; and providing an expiration  
7 date.

8        BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9        NEW SECTION.    **Sec. 1.**    (1) The legislature finds that judges in  
10 the trial courts throughout the state effectively utilize what are  
11 known as therapeutic courts to remove a defendant's or respondent's  
12 case from the criminal and civil court traditional trial track and  
13 allow those defendants or respondents the opportunity to obtain  
14 treatment services to address particular issues that may have  
15 contributed to the conduct that led to their arrest or other issues  
16 before the court. Trial courts have proved adept at creative  
17 approaches in fashioning a wide variety of therapeutic courts  
18 addressing the spectrum of social issues that can contribute to  
19 criminal activity and engagement with the child welfare system.

20        (2) The legislature further finds that by focusing on the  
21 specific individual's needs, providing treatment for the issues

1 presented, and ensuring rapid and appropriate accountability for  
2 program violations, therapeutic courts may decrease recidivism,  
3 improve the safety of the community, and improve the life of the  
4 program participant and the lives of the participant's family members  
5 by decreasing the severity and frequency of the specific behavior  
6 addressed by the therapeutic court.

7 (3) The legislature recognizes the inherent authority of the  
8 judiciary under Article IV, section 1 of the state Constitution to  
9 establish therapeutic courts, and the outstanding contribution to the  
10 state and local communities made by the establishment of therapeutic  
11 courts and desires to provide a general provision in statute  
12 acknowledging and encouraging the judiciary to provide for  
13 therapeutic court programs to address the particular needs within a  
14 given judicial jurisdiction.

15 (4) Therapeutic court programs may include, but are not limited  
16 to:

- 17 (a) Adult drug court;
- 18 (b) Juvenile drug court;
- 19 (c) Family dependency treatment court or family drug court;
- 20 (d) Mental health court, which may include participants with  
21 developmental disabilities;
- 22 (e) DUI court;
- 23 (f) Veterans treatment court;
- 24 (g) Truancy court;
- 25 (h) Domestic violence court;
- 26 (i) Gambling court;
- 27 (j) Community court;
- 28 (k) Homeless court;
- 29 (l) Treatment, responsibility, and accountability on campus (Back  
30 on TRAC) court.

31 NEW SECTION. **Sec. 2.** The definitions in this section apply  
32 throughout this chapter unless the context clearly requires  
33 otherwise.

34 (1) "Emerging best practice" or "promising practice" means a  
35 program or practice that, based on statistical analyses or a well-  
36 established theory of change, shows potential for meeting the  
37 evidence-based or research-based criteria, which may include the use  
38 of a program that is evidence-based for outcomes other than those  
39 listed in this section.

1       (2) "Evidence-based" means a program or practice that: (a) Has  
2 been tested in heterogeneous or intended populations with multiple  
3 randomized, or statistically controlled evaluations, or both; or one  
4 large multiple site randomized, or statistically controlled  
5 evaluation, or both, where the weight of the evidence from a systemic  
6 review demonstrates sustained improvements in at least one outcome;  
7 or (b) may be implemented with a set of procedures to allow  
8 successful replication in Washington and, when possible, is  
9 determined to be cost-beneficial.

10       (3) "Government authority" means prosecutor or other  
11 representative initiating action leading to a proceeding in  
12 therapeutic court.

13       (4) "Participant" means an accused person, offender, or  
14 respondent in the judicial proceeding.

15       (5) "Research-based" means a program or practice that has been  
16 tested with a single randomized, or statistically controlled  
17 evaluation, or both, demonstrating sustained desirable outcomes; or  
18 where the weight of the evidence from a systemic review supports  
19 sustained outcomes as described in this subsection but does not meet  
20 the full criteria for evidence-based.

21       (6) "Specialty court" and "therapeutic court" both mean a court  
22 utilizing a program or programs structured to achieve both a  
23 reduction in recidivism and an increase in the likelihood of  
24 rehabilitation, or to reduce child abuse and neglect, out-of-home  
25 placements of children, termination of parental rights, and substance  
26 abuse and mental health symptoms among parents or guardians and their  
27 children through continuous and intense judicially supervised  
28 treatment and the appropriate use of services, sanctions, and  
29 incentives.

30       (7) "Therapeutic court personnel" means the staff of a  
31 therapeutic court including, but not limited to: Court and clerk  
32 personnel with therapeutic court duties, prosecuting attorneys, the  
33 attorney general or his or her representatives, defense counsel,  
34 monitoring personnel, and others acting within the scope of  
35 therapeutic court duties.

36       (8) "Trial court" means a superior court authorized under Title 2  
37 RCW or a district or municipal court authorized under Title 3 or 35  
38 RCW.

1        NEW SECTION.    **Sec. 3.**    (1) Every trial and juvenile court in the  
2 state of Washington is authorized and encouraged to establish and  
3 operate therapeutic courts. Therapeutic courts, in conjunction with  
4 the government authority and subject matter experts specific to the  
5 focus of the therapeutic court, develop and process cases in ways  
6 that depart from traditional judicial processes to allow defendants  
7 or respondents the opportunity to obtain treatment services to  
8 address particular issues that may have contributed to the conduct  
9 that led to their arrest or involvement in the child welfare system  
10 in exchange for resolution of the case or charges. In criminal cases,  
11 the consent of the prosecutor is required.

12        (2) While a therapeutic court judge retains the discretion to  
13 decline to accept a case into the therapeutic court, and while a  
14 therapeutic court retains discretion to establish processes and  
15 determine eligibility for admission to the therapeutic court process  
16 unique to their community and jurisdiction, the effectiveness and  
17 credibility of any therapeutic court will be enhanced when the court  
18 implements evidence-based practices, research-based practices,  
19 emerging best practices, or promising practices that have been  
20 identified and accepted at the state and national levels. Promising  
21 practices, emerging best practices, and/or research-based programs  
22 are authorized where determined by the court to be appropriate. As  
23 practices evolve, the trial court shall regularly assess the  
24 effectiveness of its program and the methods by which it implements  
25 and adopts new best practices.

26        (3) Except under special findings by the court, the following  
27 individuals are not eligible for participation in therapeutic courts:

28        (a) Individuals who are currently charged or who have been  
29 previously convicted of a serious violent offense or sex offense as  
30 defined in RCW 9.94A.030;

31        (b) Individuals who are currently charged with an offense  
32 alleging intentional discharge, threat to discharge, or attempt to  
33 discharge a firearm in furtherance of the offense;

34        (c) Individuals who are currently charged with or who have been  
35 previously convicted of vehicular homicide or an equivalent out-of-  
36 state offense; or

37        (d) Individuals who are currently charged with or who have been  
38 previously convicted of: An offense alleging substantial bodily harm  
39 or great bodily harm as defined in RCW 9A.04.110, or death of another  
40 person.

1 (4) Any jurisdiction establishing a therapeutic court shall  
2 endeavor to incorporate the therapeutic court principles of best  
3 practices as recognized by state and national therapeutic court  
4 organizations in structuring a particular program, which may include:

- 5 (a) Determining the population;
- 6 (b) Performing a clinical assessment;
- 7 (c) Developing the treatment plan;
- 8 (d) Monitoring the participant, including any appropriate  
9 testing;
- 10 (e) Forging agency, organization, and community partnerships;
- 11 (f) Taking a judicial leadership role;
- 12 (g) Developing case management strategies;
- 13 (h) Addressing transportation, housing, and subsistence issues;
- 14 (i) Evaluating the program;
- 15 (j) Ensuring a sustainable program.

16 (5) Upon a showing of indigence under RCW 10.101.010, fees may be  
17 reduced or waived.

18 (6) The department of social and health services shall furnish  
19 services to therapeutic courts addressing dependency matters where  
20 substance abuse or mental health are an issue unless the court  
21 contracts with providers outside of the department.

22 (7) Any jurisdiction that has established more than one  
23 therapeutic court under this chapter may combine the functions of  
24 these courts into a single therapeutic court.

25 (8) Nothing in this section prohibits a district or municipal  
26 court from ordering treatment or other conditions of sentence or  
27 probation following a conviction, without the consent of either the  
28 prosecutor or defendant.

29 (9) No therapeutic or specialty court may be established  
30 specifically for the purpose of applying foreign law, including  
31 foreign criminal, civil, or religious law, that is otherwise not  
32 required by treaty.

33 (10) No therapeutic or specialty court established by court rule  
34 shall enforce a foreign law, if doing so would violate a right  
35 guaranteed by the Constitution of this state or of the United States.

36 NEW SECTION. **Sec. 4.** Jurisdictions may seek federal funding  
37 available to support the operation of its therapeutic court and  
38 associated services and must match, on a dollar-for-dollar basis,  
39 state moneys allocated for therapeutic courts with local cash or in-

1 kind resources. Moneys allocated by the state may be used to  
2 supplement, not supplant other federal, state, and local funds for  
3 therapeutic courts. However, until June 30, 2016, no match is  
4 required for state moneys expended for the administrative and  
5 overhead costs associated with the operation of a therapeutic court  
6 authorized under this chapter.

7       **Sec. 5.** RCW 82.14.460 and 2012 c 180 s 1 are each amended to  
8 read as follows:

9       (1)(a) A county legislative authority may authorize, fix, and  
10 impose a sales and use tax in accordance with the terms of this  
11 chapter.

12       (b) If a county with a population over eight hundred thousand has  
13 not imposed the tax authorized under this subsection by January 1,  
14 2011, any city with a population over thirty thousand located in that  
15 county may authorize, fix, and impose the sales and use tax in  
16 accordance with the terms of this chapter. The county must provide a  
17 credit against its tax for the full amount of tax imposed under this  
18 subsection (1)(b) by any city located in that county if the county  
19 imposes the tax after January 1, 2011.

20       (2) The tax authorized in this section is in addition to any  
21 other taxes authorized by law and must be collected from those  
22 persons who are taxable by the state under chapters 82.08 and 82.12  
23 RCW upon the occurrence of any taxable event within the county for a  
24 county's tax and within a city for a city's tax. The rate of tax  
25 equals one-tenth of one percent of the selling price in the case of a  
26 sales tax, or value of the article used, in the case of a use tax.

27       (3) Moneys collected under this section must be used solely for  
28 the purpose of providing for the operation or delivery of chemical  
29 dependency or mental health treatment programs and services and for  
30 the operation or delivery of therapeutic court programs and services.  
31 For the purposes of this section, "programs and services" includes,  
32 but is not limited to, treatment services, case management,  
33 transportation, and housing that are a component of a coordinated  
34 chemical dependency or mental health treatment program or service.  
35 Every county that authorizes the tax provided in this section shall,  
36 and every other county may, establish and operate a therapeutic court  
37 component for dependency proceedings designed to be effective for the  
38 court's size, location, and resources.

1       (4) All moneys collected under this section must be used solely  
2 for the purpose of providing new or expanded programs and services as  
3 provided in this section, except as follows:

4       (a) For a county with a population larger than twenty-five  
5 thousand or a city with a population over thirty thousand, which  
6 initially imposed the tax authorized under this section prior to  
7 January 1, 2012, a portion of moneys collected under this section may  
8 be used to supplant existing funding for these purposes as follows:  
9 Up to fifty percent may be used to supplant existing funding in  
10 calendar years 2011-2012; up to forty percent may be used to supplant  
11 existing funding in calendar year 2013; up to thirty percent may be  
12 used to supplant existing funding in calendar year 2014; up to twenty  
13 percent may be used to supplant existing funding in calendar year  
14 2015; and up to ten percent may be used to supplant existing funding  
15 in calendar year 2016;

16       (b) For a county with a population larger than twenty-five  
17 thousand or a city with a population over thirty thousand, which  
18 initially imposes the tax authorized under this section after  
19 December 31, 2011, a portion of moneys collected under this section  
20 may be used to supplant existing funding for these purposes as  
21 follows: Up to fifty percent may be used to supplant existing funding  
22 for up to the first three calendar years following adoption; and up  
23 to twenty-five percent may be used to supplant existing funding for  
24 the fourth and fifth years after adoption;

25       (c) For a county with a population of less than twenty-five  
26 thousand, a portion of moneys collected under this section may be  
27 used to supplant existing funding for these purposes as follows: Up  
28 to eighty percent may be used to supplant existing funding in  
29 calendar years 2011-2012; up to sixty percent may be used to supplant  
30 existing funding in calendar year 2013; up to forty percent may be  
31 used to supplant existing funding in calendar year 2014; up to twenty  
32 percent may be used to supplant existing funding in calendar year  
33 2015; and up to ten percent may be used to supplant existing funding  
34 in calendar year 2016; and

35       (d) Notwithstanding (a) through (c) of this subsection, moneys  
36 collected under this section may be used to support the cost of the  
37 judicial officer and support staff of a therapeutic court.

38       (5) Nothing in this section may be interpreted to prohibit the  
39 use of moneys collected under this section for the replacement of

lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

NEW SECTION. **Sec. 6.** Individual trial courts are authorized and encouraged to establish multijurisdictional partnerships and/or interlocal agreements under RCW 39.34.180 to enhance and expand the coverage area of the therapeutic court. Specifically, district and municipal courts may work cooperatively with each other and with the superior courts to identify and implement nontraditional case processing methods which can eliminate traditional barriers that decrease judicial efficiency.

NEW SECTION. **Sec. 7.** Any therapeutic court meeting the definition of therapeutic court in section 2 of this act and existing on the effective date of this section continues to be authorized.

**Sec. 8.** RCW 9.94A.517 and 2013 2nd sp.s. c 14 s 1 are each amended to read as follows:

(1)

TABLE 3  
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score 0 to 2	Offender Score 3 to 5	Offender Score 6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months
II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 12 months	12 + to 24 months

References to months represent the standard sentence ranges. 12 + equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under ((RCW 2.28.170)) chapter 2.--- RCW (the new chapter created in section 12 of this act).



(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

**Sec. 9.** RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read as follows:

(1)

TABLE 3  
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score 0 to 2	Offender Score 3 to 5	Offender Score 6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months
II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 18 months	12 + to 24 months

References to months represent the standard sentence ranges. 12 + equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under ((RCW 2.28.170)) chapter 2.--- RCW (the new chapter created in section 12 of this act).

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

**Sec. 10.** RCW 70.96A.350 and 2013 2nd sp.s. c 4 s 990 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of drug

1 and alcohol treatment services and treatment support services for  
2 nonviolent offenders within a drug court program; (c) the  
3 administrative and overhead costs associated with the operation of a  
4 drug court; and (d) during the 2011-2013 biennium, the legislature  
5 may appropriate up to three million dollars from the account in order  
6 to offset reductions in the state general fund for treatment services  
7 provided by counties. This amount is not subject to the requirements  
8 of subsections (5) through (9) of this section. During the 2013-2015  
9 fiscal biennium, the legislature may transfer from the criminal  
10 justice treatment account to the state general fund amounts as  
11 reflect the state savings associated with the implementation of the  
12 medicaid expansion of the federal affordable care act. Moneys in the  
13 account may be spent only after appropriation.

14 (2) For purposes of this section:

15 (a) "Treatment" means services that are critical to a  
16 participant's successful completion of his or her substance abuse  
17 treatment program, but does not include the following services:  
18 Housing other than that provided as part of an inpatient substance  
19 abuse treatment program, vocational training, and mental health  
20 counseling; and

21 (b) "Treatment support" means transportation to or from inpatient  
22 or outpatient treatment services when no viable alternative exists,  
23 and child care services that are necessary to ensure a participant's  
24 ability to attend outpatient treatment sessions.

25 (3) Revenues to the criminal justice treatment account consist  
26 of: (a) Funds transferred to the account pursuant to this section;  
27 and (b) any other revenues appropriated to or deposited in the  
28 account.

29 (4)(a) For the fiscal biennium beginning July 1, 2003, the state  
30 treasurer shall transfer eight million nine hundred fifty thousand  
31 dollars from the general fund into the criminal justice treatment  
32 account, divided into eight equal quarterly payments. For the fiscal  
33 year beginning July 1, 2005, and each subsequent fiscal year, the  
34 state treasurer shall transfer eight million two hundred fifty  
35 thousand dollars from the general fund to the criminal justice  
36 treatment account, divided into four equal quarterly payments. For  
37 the fiscal year beginning July 1, 2006, and each subsequent fiscal  
38 year, the amount transferred shall be increased on an annual basis by  
39 the implicit price deflator as published by the federal bureau of  
40 labor statistics.

1 (b) In each odd-numbered year, the legislature shall appropriate  
2 the amount transferred to the criminal justice treatment account in  
3 (a) of this subsection to the division of alcohol and substance abuse  
4 for the purposes of subsection (5) of this section.

5 (5) Moneys appropriated to the division of alcohol and substance  
6 abuse from the criminal justice treatment account shall be  
7 distributed as specified in this subsection. The department shall  
8 serve as the fiscal agent for purposes of distribution. Until July 1,  
9 2004, the department may not use moneys appropriated from the  
10 criminal justice treatment account for administrative expenses and  
11 shall distribute all amounts appropriated under subsection (4)(b) of  
12 this section in accordance with this subsection. Beginning in July 1,  
13 2004, the department may retain up to three percent of the amount  
14 appropriated under subsection (4)(b) of this section for its  
15 administrative costs.

16 (a) Seventy percent of amounts appropriated to the division from  
17 the account shall be distributed to counties pursuant to the  
18 distribution formula adopted under this section. The division of  
19 alcohol and substance abuse, in consultation with the department of  
20 corrections, the Washington state association of counties, the  
21 Washington state association of drug court professionals, the  
22 superior court judges' association, the Washington association of  
23 prosecuting attorneys, representatives of the criminal defense bar,  
24 representatives of substance abuse treatment providers, and any other  
25 person deemed by the division to be necessary, shall establish a fair  
26 and reasonable methodology for distribution to counties of moneys in  
27 the criminal justice treatment account. County or regional plans  
28 submitted for the expenditure of formula funds must be approved by  
29 the panel established in (b) of this subsection.

30 (b) Thirty percent of the amounts appropriated to the division  
31 from the account shall be distributed as grants for purposes of  
32 treating offenders against whom charges are filed by a county  
33 prosecuting attorney. The division shall appoint a panel of  
34 representatives from the Washington association of prosecuting  
35 attorneys, the Washington association of sheriffs and police chiefs,  
36 the superior court judges' association, the Washington state  
37 association of counties, the Washington defender's association or the  
38 Washington association of criminal defense lawyers, the department of  
39 corrections, the Washington state association of drug court  
40 professionals, substance abuse treatment providers, and the division.

1 The panel shall review county or regional plans for funding under (a)  
2 of this subsection and grants approved under this subsection. The  
3 panel shall attempt to ensure that treatment as funded by the grants  
4 is available to offenders statewide.

5 (6) The county alcohol and drug coordinator, county prosecutor,  
6 county sheriff, county superior court, a substance abuse treatment  
7 provider appointed by the county legislative authority, a member of  
8 the criminal defense bar appointed by the county legislative  
9 authority, and, in counties with a drug court, a representative of  
10 the drug court shall jointly submit a plan, approved by the county  
11 legislative authority or authorities, to the panel established in  
12 subsection (5)(b) of this section, for disposition of all the funds  
13 provided from the criminal justice treatment account within that  
14 county. The funds shall be used solely to provide approved alcohol  
15 and substance abuse treatment pursuant to RCW 70.96A.090, treatment  
16 support services, and for the administrative and overhead costs  
17 associated with the operation of a drug court.

18 (a) No more than ten percent of the total moneys received under  
19 subsections (4) and (5) of this section by a county or group of  
20 counties participating in a regional agreement shall be spent on the  
21 administrative and overhead costs associated with the operation of a  
22 drug court.

23 (b) No more than ten percent of the total moneys received under  
24 subsections (4) and (5) of this section by a county or group of  
25 counties participating in a regional agreement shall be spent for  
26 treatment support services.

27 (7) Counties are encouraged to consider regional agreements and  
28 submit regional plans for the efficient delivery of treatment under  
29 this section.

30 (8) Moneys allocated under this section shall be used to  
31 supplement, not supplant, other federal, state, and local funds used  
32 for substance abuse treatment.

33 (9) Counties must meet the criteria established in ((RCW  
34 ~~2.28.170(3)(b))~~) section 3(3) of this act.

35 (10) The authority under this section to use funds from the  
36 criminal justice treatment account for the administrative and  
37 overhead costs associated with the operation of a drug court expires  
38 June 30, 2015.

1        NEW SECTION.    **Sec. 11.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 2.28.170 (Drug courts) and 2013 2nd sp.s. c 4 s 952, 2013  
4 2nd sp.s. c 4 s 951, 2013 c 257 s 5, 2009 c 445 s 2, 2006 c 339 s  
5 106, 2005 c 504 s 504, 2002 c 290 s 13, & 1999 c 197 s 9;

6        (2) RCW 2.28.175 (DUI courts) and 2013 2nd sp.s. c 35 s 2, 2013 c  
7 257 s 6, 2012 c 183 s 1, & 2011 c 293 s 10;

8        (3) RCW 2.28.180 (Mental health courts) and 2013 c 257 s 7, 2011  
9 c 236 s 1, & 2005 c 504 s 501;

10        (4) RCW 2.28.190 (DUI court, drug court, and mental health court  
11 may be combined) and 2013 c 257 s 8, 2011 c 293 s 11, & 2005 c 504 s  
12 502;

13        (5) RCW 13.40.700 (Juvenile gang courts—Minimum requirements—  
14 Admission—Individualized plan—Completion) and 2012 c 146 s 2;

15        (6) RCW 13.40.710 (Juvenile gang courts—Data—Reports) and 2012 c  
16 146 s 3;

17        (7) RCW 26.12.250 (Therapeutic courts) and 2005 c 504 s 503;

18        (8) RCW 2.28.165 (Specialty and therapeutic courts—Establishment  
19 — Principles of best practices—Limitations) and 2013 c 257 s 2; and

20        (9) RCW 2.28.166 (Definition of "specialty court" and  
21 "therapeutic court") and 2013 c 257 s 4.

22        NEW SECTION.    **Sec. 12.**    Sections 1 through 4, 6, and 7 of this  
23 act constitute a new chapter in Title 2 RCW.

24        NEW SECTION.    **Sec. 13.**    If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28        NEW SECTION.    **Sec. 14.**    If any part of this act is found to be in  
29 conflict with federal requirements that are a prescribed condition to  
30 the allocation of federal funds to the state, the conflicting part of  
31 this act is inoperative solely to the extent of the conflict and with  
32 respect to the agencies directly affected, and this finding does not  
33 affect the operation of the remainder of this act in its application  
34 to the agencies concerned. Rules adopted under this act must meet  
35 federal requirements that are a necessary condition to the receipt of  
36 federal funds by the state.

1        NEW SECTION.    **Sec. 15.**    Section 8 of this act expires July 1,  
2    2018.

3        NEW SECTION.    **Sec. 16.**    Section 9 of this act takes effect July  
4    1, 2018.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 18, 2015.

Filed in Office of Secretary of State May 18, 2015.